

III. PUBLIC INTEREST BENEFITS.

The Merger will produce substantial public benefits that justify expeditious approval of the applications to transfer control of the subject FCC authorizations to AT&T. As demonstrated above, after the expenditure of billions of dollars on the effort to provide local exchange and exchange access services, the Merger will bring AT&T to the next level as a potential provider of local telecommunications services.⁷⁰ Combining the complementary operations and strategies of AT&T and TCI-C will put the Merger Parties in a position, within a foreseeable time period, to compete against the ILECs in the provision of residential telephony services and to develop and offer the next generation of Internet Protocol ("IP") telephony, broadband data and cable services. The transaction thus will promote the primary goals of the Telecommunications Act of 1996, by fostering facilities-based competition for the delivery of two-way local residential voice communications and advanced broadband services.

Through the combination with TCI and the continued evolution of AT&T's nationwide backbone network, AT&T will be able to obtain significantly accelerated entry into residential local telephony, "next generation" IP telephony, and diversified digital data and video services. TCI will have instant access to AT&T's capital, expertise and established telephony brand to support the combined company's new product offerings and marketing efforts. In sum, the Merger Parties plan to be the first fully-integrated residential communications services

⁷⁰ See supra at 3-4, 18-22 (discussing AT&T's TSR, ADL and SONET Ring services).

provider with a national product including the ability to provide long distance, video, local, wireless, Internet and other data services on a packaged, as well as individualized, basis.

Upgrading the TCI cable infrastructure to provide broadband video, voice and IP products and services will not occur overnight, and it will occur at a substantial cost. To achieve these benefits, the Merger Parties first will need to complete the upgrade of TCI's cable infrastructure to provide for the delivery of advanced video and data transmissions. The Merger will provide TCI with the financial certainty that its upgrades will proceed on schedule following the Merger, or, if possible, on an expedited basis. Following the Merger, AT&T plans to upgrade the TCI network and architecture to a high-speed system that will carry two-way voice services with the toll-quality clarity and reliability that will be necessary to convince customers to switch from their current ILEC carriers. AT&T also will add innovative equipment to TCI's networks, including enhanced switching and other systems. Ultimately, AT&T will participate with its vendors in the development and deployment of new multi-purpose digital customer terminals with technology that will permit the complete integration of voice, data and video service. Consumers then will be able to access a complete range of services, including digital and "downloadable" video programming, World Wide Web and Internet access, shopping, on-line bill paying, interactive programming and other forms of electronic commerce, in addition to a full range of local and long distance voice services utilizing toll-quality IP telephony.

As has been discussed in Section II above, the upgrade contemplated by TCI prior to the decision to merge with AT&T involved the creation of additional capacity, content-

enriched high-speed data services, and impulse pay-per-view video, but not, in the near term, voice telephony. The network upgrade envisioned by AT&T will include voice telephony through a series of phased introductions. The initial phase will involve the deployment of equipment, compatible with a circuit switched network, at the customer premise and hub location and relies on the circuit switched network for transport of the call. An interim phase involves the deployment of IP-based equipment at the customer premise and hub location, but continues to rely on a circuit switched network. The ultimate phase will utilize end-to-end packet architecture for the delivery of telephony.

As an initial matter, the Merger Parties believe that TCI will need to expend approximately \$1.8 billion between 1998 and 2000 to upgrade its current facilities to increase channel capacity, provide high-speed data, and pay-per-view video. This upgrade, however, does not include voice telephony. AT&T anticipates that \$400 to \$500 million of the estimated \$1.8 billion upgrade will be expended by TCI prior to the Merger to upgrade the TCI network, so that perhaps one-third of TCI's existing cable plant will be upgraded by the consummation of the Merger. Assuming an expeditious approval of the Merger, it is anticipated that the Merger Parties will complete approximately 60% of the two-way cable upgrade by year-end 1999, and 90% of the upgrade by year-end 2000.

To increase channel capacity, TCI must deploy fiber optic facilities closer to the customer. This will be done by extending the fiber node -- the facility at which the high capacity fiber optic cable from the cable headend or hub connects to the lower capacity coaxial cable --

closer to the home. Under TCI's existing architecture, each fiber node services from 2,000 to 10,000 homes. In TCI's upgraded system, the fiber nodes will be deployed closer to homes, such that each fiber node will serve an average of 600 homes. In this upgrade, TCI also will deploy the equipment needed to provide the cable network with two-way capabilities. This replacement of equipment includes installation of new equipment at the headend or hub and at the fiber node, and deployment of two way amplifiers in the coax network. In addition to these two main components of the upgrade, TCI will replace cable and other equipment where needed in order for the network to handle more capacity.

While TCI's business plans absent the Merger included upgrading its network to provide increased programming capacity, high speed data, and pay-per-view video, TCI did not have plans, nor the capital in the short term, to upgrade the facilities and establish the marketing infrastructure necessary to provide telephony over cable. For its part, to provide facilities-based local exchange service expeditiously, AT&T needs control of a local loop that has been previously unattainable. Thus, but for the proposed Merger, the telephony upgrade to TCI's network would not have occurred at any time in the near future and AT&T would not have wired access to the homes of potential customers. To add telephony capability to TCI's upgraded network, AT&T currently estimates that it will expend less than \$600 and potentially as low as \$300 per subscriber to deploy the necessary customer premise IP telephony facilities and other infrastructure represented in the final phase of its upgrade to TCI's network. To the extent that AT&T, in the effort to get service to its customers as soon as possible, offers cable telephony on an interim basis

through the use of existing circuit switched technology, AT&T estimates that it will need to expend approximately \$750 per subscriber.

As noted, while AT&T's ultimate plan calls for the development of an end-to-end packet network, AT&T initially will need to deploy cable telephony in conjunction with its existing switched circuit network in 1999 and 2000. To provide cable telephony in a circuit switched environment, AT&T still will need to deploy certain customer premise equipment and new terminals at hub locations in order to convert signals to a standard format interface to the public switched network during the initial phase of its facilities-based local telephony service. These converted signals will travel through the Merger Parties' transport facilities to an existing AT&T switch or to the switch of another carrier if AT&T does have local switching facilities. From the switch, the call will be routed to the appropriate interexchange or local carrier.

While AT&T intends to move to the final phase of its local telephony plans as quickly as possible, AT&T may need to include an interim IP phase. In this phase, AT&T will use IP-based equipment with the TCI network, but in order to transport the call over the Merger Parties' facilities, the signal will be converted to the standard interface and directed over the public switched network. In its final phase, AT&T will provide cable telephony using IP packet technology in its central office and the network. Under this architecture, AT&T will deploy IP telephony-based equipment at the customer premise and at the hub. New IP-based packet equipment will be installed at AT&T's central office, including packet switches. In this final

phase, calls will be directed over AT&T's IP-based packet network if the caller is presubscribed to AT&T; other calls will be directed to the appropriate carrier's network.

AT&T will achieve certain economies of scale through the Merger that will both expedite its ability to provide new and differentiated services and make those services more economically efficient to provide. As an initial matter, as indicated above, AT&T has access to an existing wired network with access to approximately current cable television customers. Beyond simply obtaining access to TCI's wireline infrastructure, AT&T and TCI can accomplish the upgrade of TCI's infrastructure to provide for both two-way voice and digital video and data transmissions at the same time. AT&T also can, in certain instances, connect TCI's facilities to Teleport's switches, thereby using Teleport's switches and transport facilities to carry the local traffic of post-Merger AT&T's voice customers. This architecture will enable AT&T to spread the high fixed costs associated with these facilities over more lines and services, thereby enhancing AT&T's ability to price its products more competitively against entrenched local carriers. Given the positive effects of the Merger on competition as well as the public benefits of new services to consumers from the transaction, the Merger is undoubtedly in the public interest.⁷¹

⁷¹ It should be noted that, although the Merger Parties' plans for the Merger are ambitious, they are also limited and will take time to complete. Moreover, despite building upon the networks acquired through the mergers with Teleport and TCI, AT&T will still not be able to provide "all distance" service nationwide. As noted above, TCI currently provides cable television service to approximately 12.7 million subscribers, and passes approximately 20.9 million homes. In addition, TCI has interests in, but does not manage or control, systems serving approximately an additional 7.5 million subscribers, and passing an additional 13 million homes. AT&T will need to continue to explore alternative approaches to be able to provide a competitive product in other locations. The proposed merger plans of AT&T and TCI, however, once consummated and implemented, will go far in providing new and needed competition for local residential telephone (continued...)

IV. ADDITIONAL MATTER

As the Commission is aware, TCI's subsidiaries and affiliates hold a number of licenses to operate cable television relay system, satellite earth station, private and common carrier point-to-point microwave, common carrier and private business radio station authorizations. The proposed Merger results in a transfer of control of all of these authorizations. Although the applications covering the authorizations are intended to be complete, the licensees involved in the proposed transaction may have on file and may file additional applications for new or modified authorizations or other facilities that may be processed or granted by the FCC in the ordinary course during the pendency of the subject transfer of control applications.

Given the ongoing regulatory activity of TCI, including the need for TCI to file numerous applications with the FCC during the period in which the instant transfer of control applications will remain pending at the FCC, the Merger Parties request that grant of the instant transfer of control applications include the authority for AT&T to acquire control of: (1) any authorization issued to TCI or its subsidiaries and affiliates during the Commission's consideration of the transfer of control applications and the period required for consummation of the transaction following approval; (2) construction permits held by licensees involved in this transfer of control that mature into licenses after closing and that may have been omitted from the transfer of control applications; and (3) applications that will have been filed by such licensees and that are pending

⁷¹ (...continued)

service, and in serving the public interest by facilitating the development and availability of a full range of higher quality telecommunications services for consumers.

at the time of consummation of the proposed transfer of control. Such action would be consistent with prior decisions of the Commission.⁷²

⁷² See, e.g., Teleport, FCC 98-169, at ¶ 58; Craig McCaw and AT&T, 9 FCC Rcd. 5836, 5909 n.300 (1994); American Teleservices, Mimeo No. 3061 (Com. Car. Bur.), released March 23, 1984, at ¶ 14; RAM Communications Holdings of Texas, Inc., Mimeo No. 2604 (Com. Car. Bur. 1984), at ¶ 6.